

HOUSE BILL 1279

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

William J. Gray

AN ACT

RELATING TO THE STATE FISC; PROVIDING FOR TAXPAYERS DIVIDENDS FROM GENERAL FUND SURPLUSES; REPEALING THE TAX STABILIZATION FUND; TRANSFERRING BALANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-4-2.1 NMSA 1978 (being Laws 1987, Chapter 184, Section 1) is amended to read:

"6-4-2.1. GENERAL FUND OPERATING RESERVE CREATED--
AUTHORIZING EXPENDITURES.--

A. There is hereby created within the general fund the "general fund operating reserve". Notwithstanding any other provision of law to the contrary, there shall be deposited to the general fund operating reserve cash balances in the fund existing pursuant to Laws 1966, Chapter 66, Section 16; Laws 1968, Chapter 71, Section 13; Laws 1970, Chapter 89,

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1 Section 4; Laws 1971, Chapter 327, Section 6; Laws 1972,
2 Chapter 98, Section 6; Laws 1973, Chapter 403, Section 6; Laws
3 1974 (S.S.), Chapter 3, Section 6; Laws 1975 (S.S.), Chapter
4 17, Section 6; Laws 1976, Chapter 58, Section 7; Laws 1979,
5 Chapter 404, Section 7; Laws 1981, Chapter 38, Section 7; Laws
6 1983, Chapter 46, Section 8; Laws 1984 (S.S.), Chapter 7,
7 Section 7; and Laws 1986, Chapter 116, Section 1.

8 B. Except as provided in Section 6-4-4 NMSA 1978,
9 the general fund operating reserve may be expended only upon
10 specific authorization by the legislature in an amount
11 authorized by the legislature and only in the event general
12 fund revenues and balances, including all other transfers to
13 the general fund authorized by law, are insufficient to meet
14 the level of appropriations authorized."

15 Section 2. Section 6-4-4 NMSA 1978 (being Laws 1987,
16 Chapter 347, Section 4, as amended) is amended to read:

17 "6-4-4. RESERVATION OF EXCESS GENERAL FUND REVENUES--
18 APPROPRIATION TO TAXPAYERS DIVIDEND FUND.--~~[For the seventy-~~
19 ~~seventh and subsequent fiscal years]~~

20 A. If the total cumulative revenues of the general
21 fund in a fiscal year exceed the total of appropriations from
22 the general fund for the operations of state government in that
23 fiscal year, the excess revenue shall be transferred to the
24 operating reserve ~~[provided that if the sum of the excess~~
25 ~~revenue plus the balance in the operating reserve prior to the~~

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1 ~~transfer is greater than eight percent of the aggregate~~
2 ~~recurring appropriations from the general fund for the previous~~
3 ~~fiscal year, then an amount equal to the smaller of either the~~
4 ~~amount of the excess revenue or the difference between the sum~~
5 ~~and eight percent of the aggregate recurring appropriations~~
6 ~~from the general fund for the previous fiscal year shall be~~
7 ~~transferred to the tax stabilization reserve; provided further~~
8 ~~that if the total of the amount transferred to the tax~~
9 ~~stabilization reserve pursuant to the provisions of this~~
10 ~~section plus the balance in that reserve prior to the transfer~~
11 ~~is greater than six percent of the aggregate recurring~~
12 ~~appropriations from the general fund for the previous fiscal~~
13 ~~year, then an amount equal to the smaller of either the amount~~
14 ~~transferred or the difference between the total and six percent~~
15 ~~of the aggregate recurring appropriation from the general fund~~
16 ~~for the previous fiscal year is appropriated to the taxpayers~~
17 ~~dividend fund].~~

18 B. At the end of a fiscal year, after reserving an
19 amount equal to twenty percent of the previous year's total
20 general fund appropriations and other obligations of the
21 general fund, or a higher amount provided by law, the treasurer
22 shall transfer fifty percent of the remainder to the taxpayers
23 dividend fund."

24 Section 3. Section 6-4-5 NMSA 1978 (being Laws 1987,
25 Chapter 347, Section 5) is amended to read:

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1 "6-4-5. TAXPAYERS DIVIDEND FUND--CREATED--PURPOSE--

2 REFUNDS.--

3 A. There is created [~~hereby~~] in the state treasury
4 the "taxpayers dividend fund".

5 B. The balance of the taxpayers dividend fund shall
6 be those funds directed to it by law and such other funds as
7 the legislature may appropriate from time to time to the fund.

8 ~~[C. If the balance in the taxpayers dividend fund~~
9 ~~at the end of the seventy-sixth or any subsequent fiscal year~~
10 ~~exceeds one percent of the tax liabilities reported to the~~
11 ~~taxation and revenue department pursuant to the Income Tax Act~~
12 ~~during that fiscal year, then the governor shall propose to the~~
13 ~~next session of the legislature a method for refunding the~~
14 ~~balance to the taxpayers.~~

15 ~~D.]~~ C. Balances in the taxpayers dividend fund may
16 be appropriated only for the purpose of refunding those
17 balances to the taxpayers.

18 D. Any resident who filed an individual New Mexico
19 income tax return in the preceding taxable year and who is not
20 a dependent of another individual shall be eligible for a
21 taxpayer dividend even if the individual had no income taxable
22 pursuant to the Income Tax Act unless the individual was:

23 (1) an inmate of a public institution for more
24 than six months during the preceding taxable year; or

25 (2) a resident of New Mexico for less than six

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1 months.

2 E. The taxpayer dividend is based on an equal share
3 of money in the taxpayers dividend fund divided by the total
4 number of federal exemptions allowable for federal income tax
5 purposes. The amount received by each taxpayer shall be based
6 on the number of federal exemptions allowable for federal
7 income tax purposes for that taxpayer; provided that in the
8 case of husband and wife who filed a joint return where only
9 one individual is a New Mexico resident, the number of
10 exemptions shall be reduced by one.

11 F. When the department of finance and
12 administration notifies the taxation and revenue department of
13 the amount available for taxpayer dividends, the secretary of
14 taxation and revenue shall cause to be issued warrants payable
15 from the taxpayers dividend fund to eligible taxpayers.

16 G. The taxpayers dividend shall not be distributed
17 in any year in which the dividend would be less than fifty
18 dollars (\$50.00) per exemption.

19 H. The taxpayer dividend is exempt from state
20 income tax.

21 I. For purposes of this section, "dependent" means
22 "dependent" as defined by Section 152 of the Internal Revenue
23 Code, but "dependent" also includes any minor child or
24 stepchild of the resident who would be a dependent for federal
25 income tax purposes if the public assistance contributing to

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1 the support of the child or stepchild was considered to have
2 been contributed by the resident."

3 Section 4. TEMPORARY PROVISION--TRANSFER OF BALANCES.--
4 Any balance remaining in the tax stabilization fund on the
5 effective date of this act shall be transferred to the
6 taxpayers dividend fund.

7 Section 5. REPEAL.--Section 6-4-2.2 NMSA 1978 (being Laws
8 1987, Chapter 347, Section 3, as amended) is repealed."

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